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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,570	12/26/2001	Masaru Matsuura	K0103-US/OH	8366

466 7590 01/25/2005

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EXAMINER

MADSEN, ROBERT A

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/025,570	Applicant(s) MATSUURA ET AL.	
	Examiner Robert Madsen	Art Unit 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 and 9-17 is/are allowed.
- 6) ☒ Claim(s) 7, 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Amendment filed November 1, 2004 has been entered. Claim 18 has been added. Claims 1-7,9-18 remain pending in the application.
2. The objection to claim 9 is withdrawn in light of the Amendment.

Allowable Subject Matter

3. Claims 1-6,10-17 are allowed.
4. The following is an examiner's statement of reasons for allowance:
5. The prior art does teach producing packed tofu by wherein an empty container is *first* coated on the inside surface with an aqueous solution comprising either a magnesium or calcium salt *before* it is filled with a coagulant-containing soybean milk.
6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claim 7 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable Sengoku et al. (US 4874630) in view of Uno et al. (JP 61234763).

9. Sengoku et al. teach filling a container with soybean milk and coagulant, sealing the container, heating the sealing container and providing a tofu that can be shaken laterally to break contact between the tofu and the inside of the container surface, wherein the tofu is not frozen, as recited in claim 18 (See Column 3, lines 4-38, Column 4, lines 10-32, and Example 1 from Column 4, line 38 to Column 5, line 9). Sengoku et al. further teach that the bean curds can be released from their mold containers when served for eating (Column 6, lines 50 to 57). However Sengoku et al. are silent in teaching dropping the sealed container as part of the manufacturing process to break contact between the tofu and inside of the container surface, as recited in claim 7.

10. Uno et al. are relied on as teaching the general concept of removing a solidified fluid food from a mold by intentionally dropping the mold. Uno et al. teach by dropping the mold, contact is easily broken between the food and mold surface, and the dropping method of Uno et al. is automated, via a conveyor system. (JPO and Derwent Abstracts).

11. Therefore, it would have been obvious to modify Sengoku et al. and include a dropping step to break contact between the tofu and mold container since Uno et al. teach breaking the contact between a molded fluid food and the container walls in which it is molded is *easily* done by dropping the container via an automated process. It also would have been obvious to include such a dropping step as part of the manufacturing process, since it would eliminate the need for an individual to shake the

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mold container manually when serving the curds for eating. It would have been further obvious to drop the *sealed* container of Sengoku et al. rather than drop an opened container in such a manufacturing process, since Sengoku et al. teach the curds are released from the mold containers when served for eating. Dropping the open container during a manufacturing process would imply that one would have to serve the curds for eating at that point, since the curds would be released from the container at that point. By dropping the sealed containers as part of an automated process wherein the containers remain sealed, the manual step of breaking contact between the curds and mold container is no longer required by the consumer and the consumer can release the curds from the container at the appropriate time for eating.

Response to Arguments

12. Applicant's arguments filed November 1, 2004 have been fully considered but they are not persuasive.

13. The amended claim 7 now requires that a sealed container be dropped. Applicant argues that Sengoku et al. teach shaking only when the container is opened. However, as discussed above, Sengoku et al. also teach releasing the curds from the container when the curds are served for eating. Thus, Sengoku et al. implies the container is opened at a time when it is appropriate to serve the curds. Uno et al. teach providing the an automated process of breaking the contact between a food and its mold container. Modifying Segno et al. and providing an automated process of breaking the contact between the curd and mold container of Sengoku et al. would offer

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the advantage that an individual would not have to manually break the contact when the curds were served for eating. Additionally, as it would be highly unlikely that a consumer would have access to such an automated method, and modifying Sengoku et al. further such that the mold container remained closed during the "dropping process" would provide the consumer a choice to decide when the curds should be released from the containers for eating.

14. Applicant also argues that Uno et al. teach a frozen molded food, and as such this would not have been obvious to combine with Sengoku et al. Sengoku et al. teach a manual method for breaking contact between a molded food and the container in which it is molded. Uno et al. teach an automated method of breaking contact a molded food and the container in which it is molded. Thus, Uno et al. solves the same problem as Sengoku et al. (i.e. breaking contact between the food and the mold container), but utilizing a different method.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

16. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Madsen whose telephone number is (571) 272-1402. The examiner can normally be reached on 7:00AM-3:30PM M-F.


18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

19. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert Madsen
Examiner
Art Unit 1761



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